

REMARKS

Applicants have amended independent claim 1 to recite that the substitution of SEQ ID NO: 6 occurs at positions 20-34. Claim 1 has also been amended to clarify that the substitution is with an amino acid sequence selected from SEQ ID NOs: 23, 24, 25, 26, 27, 28, or 29. Support for these amendments can be found in the specification, for example, in Fig. 4, as was acknowledged by the Examiner in the Office Action of February 28, 2007. Accordingly, no new matter has been added. In addition, dependent claim 29 has been correspondingly amended.

Claims 19, 28, 30, and 31 have been cancelled without prejudice or disclaimer. Applicants reserve the right to pursue claims similar or identical to these claims in one or more applications claiming priority to this application.

Applicants have also added dependent claims 32-37, which each depend from claim 1. Each of these claims cites a specific sequence of the list of sequences given in claim 1 (except for SEQ ID NO: 25, which was recited in claim 29). Accordingly, no new matter has been added.

Claims 1, 24, 25, 29, and 32-38 are now pending for examination. Claims 14-18 and 20-22 remain withdrawn.

Claim Objections

Claims 30 and 31 have been objected to because these claims recite sequences without referring to the appropriate sequence identifiers.

Applicants have cancelled claims 30 and 31. Thus, this objection is moot. However, Applicants do not concede that the sequences previously recited in claims 30 and 31 were not present in the application as filed.

Rejections under 35 U.S.C. §112, ¶1, New Matter

Claims 1, 24, 25, and 28-31 have been rejected under 35 U.S.C. §112, ¶1, as failing to comply with the written description requirement. The Examiner alleges that new matter has been added.

With respect to independent claims 1 and 28, the Examiner asserts that there is no apparent basis in the specification for replacing any portion of SEQ ID NO: 6 with SEQ ID NOs:

23-29, but only for the substitution of certain positions. While Applicants do not concede to the Examiner's reasoning, Applicants have elected to amend claim 1 to recite that the substitution occurs at positions 20-34 of SEQ ID NO: 6. Applicants have also cancelled claim 28, thereby mooting the rejection of claim 28. Claims 24, 25, and 29 each depend from claim 1, and should be allowable for at least the same reasons.

Regarding independent claims 30 and 31, the Patent Office alleges that various portions of the specification do not support claims 30 and 31. Applicants have cancelled claims 30 and 31, rendering these rejections moot. However, Applicants do not concede that the specification would not support new claims 30 and 31.

Thus, for at least the above-described reasons, Applicants respectfully request that this rejection be withdrawn.

Rejections under 35 U.S.C. §112, ¶1, Enablement

Claims 1, 19, 24, 25, and 28-31 have been rejected under 35 U.S.C. §112, ¶1, for not reasonably providing enablement for all avian pancreatic polypeptides.

With respect to claim 19, as claim 19 has been cancelled, this rejection is now moot. However, Applicants do not concede that the specification does not enable substitutions within SEQ ID NO: 23, as was recited in claim 19.

With respect to claims 30 and 31, as these claims have been cancelled, these rejections have been rendered moot. However, Applicants do not concede that the specification does not enable claims 30 and 31 as previously pending.

No specific rejection was given as to the remaining claims, and in particular, to independent claim 1. However, in view of the above-described amendments, it is believed that these rejections are now moot, and Applicants respectfully request that these rejections be withdrawn.

Rejections under 35 U.S.C. §112, ¶2

Claim 19 has been rejected under 35 U.S.C. §112, ¶2, as being indefinite for failing to particularly point out and distinctively claim the subject matter which Applicants regard as the invention. The Patent Office alleges that various portions of claim 19 are indefinite, as once the

substitutions have been made, it is not clear whether the resulting polypeptide can still be considered an avian pancreatic polypeptide. In addition, the Examiner states that the claims are confusing because of differences in the calculation of the number of substitutions within the claim.

Applicants do not concede to the merits of any of these rejections. However, in view of the fact that claim 19 has been cancelled, it is believed that this rejection is now moot.

CONCLUSION

Favorable action is respectfully requested. If, for any reason, the Examiner is of the opinion that a telephone conversation with Applicants' representatives would expedite prosecution, the Examiner is kindly invited to contact the undersigned at 617-646-8000.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825, under Order No. Y0087.70010US00, from which the undersigned is authorized to draw.

Dated: May 24, 2007

Respectfully submitted,

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